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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/698,362	10/27/2000	Phillip S. Pound	NORT-0082 (13421RRUS01U)	5842
21906	7590	12/26/2002		
TROP PRUNER & HU, PC 8554 KATY FREEWAY SUITE 100 HOUSTON, TX 77024			EXAMINER	
			ENG, GEORGE	
			ART UNIT	PAPER NUMBER
			2643	
DATE MAILED: 12/26/2002				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/698,362	POUND, PHILLIP S.
Examiner	Art Unit	
George Eng	2643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 October 2000.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-40 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-40 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                           | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 . | 6) <input type="checkbox"/> Other: _____ .                                   |

**DETAILED ACTION**

***Information Disclosure Statement***

1. The information disclosure statement filed 1/5/2001 (paper no. 2) has been considered.
2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-4, 6-8, 10-16, 18-20, 22-25, 27-28, 30-33 and 35-39 are rejected under 35 U.S.C. 102(e) as being anticipated by Tabata et al. (US PAT. 6,313,864 hereinafter Tabata).

Regarding claim 1, Tabata discloses a method for communicating image and voice comprising the steps of receiving an incoming call from a party, receiving calling party information (i.e., a fundamental character data of the calling party) associated with the incoming call, receiving information associated with at least one physical attribute of the party, altering at least a portion of an image associated with the party information based on the received information, and display the altered image (col. 10 line1 through col. 12 line 20 and col. 22 line 36 through col. 25 line 44).

Regarding claims 2-3, Tabata discloses receiving information associated with at least one physical attribute of the party comprising receiving information associated with facial expressions of the party, i.e., command signal codes in accordance with the eye and mouth (i.e., lips) motion data (col. 10 lines 41-53).

Regarding claim 4, Tabata discloses to alter the mouth (i.e., lips) of the image (col. 12 lines 9-13).

Regarding claim 6, Tabata teaches to receive information associated with at least one physical attribute comprising data, i.e., a numeric value, associated with one of a plurality of facial expression (col. 15 lines 8-18 and col. 17 liens 44-53).

Regarding claim 7, Tabata teaches to receiving voice signal as receiving the incoming call (col. 12 lines 5-8).

Regarding claim 8, Tabata teaches to display an image of moving lips of the party that are substantially synchronized with the voice signals (col. 7 line 63 through col. 8 line 15).

Regarding claim 10, Tabata discloses an apparatus as shown in 1 comprising data receiving means (i.e., 111 read as an interface) adapted to receiving voice information and

animation information over a call from a party, wherein the animation information is representative of a facial expression (col. 8 lines 20-24 and col. 10 line 54 through col. 11 line 14), at least one storage device (113) to store an electronic representation of an image of the party (col. 10 lines 12-17), and a controller (2, figure 2) adapted to animate at least a portion of the electronic representation of the image based on the animation information and display the animated image (col. 14 line 15 through col. 17 line 65).

Regarding claims 11-12, Tabata discloses to receive calling party information associated with the call to access image based on the calling party information (col. 22 lines 51-66).

Regarding claim 13, the limitation of the claim are rejected as the same reasons set forth in claim 8.

Regarding claim 14, the limitation of the claim are rejected as the same reasons set forth in claim 6.

Regarding claims 15-16, Tabata discloses the controller capable of tracking physical attributes of a user of the apparatus, mapping the physical attributes of the user to a selected value, and to transmit the selected value to a remote telecommunication device (col. 6 line 56 through col. 7 line 6 and col. 11 lines 38-60).

Regarding claim 18, Tabata discloses an article (2) comprising at least one machine readable storage medium containing instructions that when executed cause a processor to receive a voice signal form a participant over a call session, receive an image comprising at least a portion of a face of the participant and modify a portion of the image so that the lips of the face are substantially synchronized with the voice signal (col. 7 lines 18-37, col. 10 line 1 through col. 12 line 20 and col. 22 line 36 through col. 25 line 44).

Regarding claims 19-20, Tabata teaches to receive the image from a storage device over the call session (col. 10 lines 12-26).

Regarding claim 22-24, Tabata teaches to map information over the call session, to modify the portion of the image based on the information and to display the portion of the image (col. 22 line 36 through col. 25 line 44).

Regarding claim 25, Tabata discloses a processor (2) as shown in figure 2 to receive calling parting information associated with an incoming call, receive voice information and mapping information from the incoming call, receiving at least a facial image associated with the calling party information, and animate the facial image based on the mapping information and voice information (col. 10 line 1 through col. 12 line 20 and col. 22 line 36 through col. 25 line 44).

Regarding claim 27, the limitation of the claim are rejected as the same reasons set forth in claim 8.

Regarding claim 28, the limitation of the claim are rejected as the same reasons set forth in claims 19-20.

Regarding claim 30, Tabata discloses a communication system comprising a device on a sending side to track at least one physical attribute of a participant, associated the physical attribute to a selected value and transmit the selected value, and a device on a receiving side for receiving the selected value to reconstruct the physical attribute of the participant based on an image and the selected value and display the reconstruct image (figure 5 and col. 10 line 1 through col. 12 line 20 and col. 22 line 36 through col. 25 line 44).

Regarding claim 31, the limitation of the claim are rejected as the same reasons set forth in claims 2-3.

Regarding claim 32, the limitation of the claim are rejected as the same reasons set forth in claim 7.

Regarding claim 33, the limitation of the claim are rejected as the same reasons set forth in claim 8.

Regarding claim 35, Tabata discloses an apparatus comprising a video camera for tracking at least one physical attribute of user (col. 7 lines 30-37), and a controller for determining animation information base on the at least one physical attributes of the user and transmit the animation information to a telecommunication device (col. col. 10 line1 through col. 12 line 20 and col. 22 line 36 through col. 25 line 44).

Regarding claims 36 and 38, the limitation of the claim are rejected as the same reasons set forth in claims 2-3.

Regarding claim 37, the limitation of the claim are rejected as the same reasons set forth in claim 6.

Regarding claim 39, the limitation of the claim are rejected as the same reasons set forth in claim 8.

#### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5, 21 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tabata et al. (US PAT. 6,313,864 hereinafter Tabata) in view of Hsu (US PAT. 5,907,604).

Regarding claim 5, Tabata discloses to receive calling party information comprising an image of a speaker on a sending side (col. 10 lines 12-17 and col. 22 lines 51-64). Tabata differs from the claimed invention in not specifically teaching to receive calling party information comprising at least one of a phone number and name associated with the incoming call. However, it is old and notoriously well known in the art of receiving calling party information comprising at least one of a phone number and name associated with the incoming call, i.e., caller ID, in order to use the calling party information to determine whether to allow the call to go through, to block the call, or to display the information on a display, for example see Hsu (col. 1 line 66 through col. 2 line 42 and col. 3 line 66 through col. 4 line 16). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Tabata in receiving calling party information comprising at least one of a phone number and name associated with the incoming call, as per teaching of Hsu, in order to use the calling party information to determine whether to allow the call to go through, to block the call, or to display the information on a display.

Regarding claims 21-26, the limitations of the claims are rejected as the same reasons set forth in claim 5.

7. Claims 9, 17, 29, 34 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tabata et al. (US PAT. 6,313,864 hereinafter Tabata) in view of Coleman (H1790).

Regarding claim 9, Tabata discloses the image and voice communication device (2) communicating with an external device (4) via a telephone line such that the image and voice communication device can be read as conventional videophone. Tabata differs from the claimed invention in not specifically teaching to communicate over a wireless link. However, it is old and notoriously well known in the art of using a wireless link for communication, i.e., cellular videophone, in order to improve the portability, for example see Coleman (abstract and col. 3 line 33 through col. 4 line 9). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Tabata to use the wireless link for communication, as per teaching of Coleman, because it improves the portability.

Regarding claims 17, 29, 34 and 40, the limitations of the claims are rejected as the same reasons set forth in claim 9.

### *Conclusion*

8. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington D.C. 20231

Or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, V.A., Sixth Floor (Receptionist).

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Eng whose telephone number is 703-308-9555. The examiner can normally be reached on Tuesday to Friday from 7:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis A. Kuntz, can be reached on (703) 305-4870. The fax phone number for the organization where this application or proceeding is assigned is 703-308-6306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.



George Eng

Examiner

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